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Your contract law

The course is based on the fact that the foundation for all contracts – the contractual legislation – is as it is and is equal to all, but that the way organizations relate to it in their contracts differ. Consequently, instead of exercises prepared in advance to illustrate general applications of the law, the part of the course that corresponds to exercises prepared in advance will focus on the situation at your company. Instead of traditional exercises, the following questions will be asked: “How do you deal with these issues?”, “How does your organization relate to the legal rules that we have talked about?”, “What problems relating to them have occurred in your organization?” and “How can you – in your organization, with regard to your needs and reality – improve the situation in relation to the discussed rules?” *Each separate part of the course will be concluded with a discussion of these questions.*

The course is aimed at primarily sellers and purchasers. It requires three days and costs SEK 180 000.

The course is led by Jon Kihlman, LL.D.

Content

1. Introduction. Contract law, moral and ethics.
2. General issues in contract law. Interpretation of contracts.
 - Letters of intent, Memorandums of Understanding, The function of contract terms, Ranking of contractual documents, standard terms, templates and “boiler plates”, Integration clauses and formal requirements for changes in a contract.
3. Resolution of disputes
 - Court or arbitration? Is mediation an alternative? Can tossing of a coin be?
4. National and international contracts

- What rules shall be applied if the parties have not chosen a governing law? What problems can occur if the parties do not choose “correctly”? Relevant criteria for choosing. Is Swedish law a good choice?
5. Conclusion of contracts
 - RFT, RFQ, RFO and similar constructions, offers, acceptances, negotiations and formal requirements.
 6. Frame agreements and other contracts with a long life span
 - Frame agreements that bind and that do not bind. Forecasts and delivery plans; other tools to improve a frame agreement. Standing offers. Frame agreements or delivery in instalments?
 7. Signatory power and authority
 - Authority, right to attest. Limitations of authority in relation to price or total scope of obligations?
 8. Sale of goods, services, functions and other objects. Assignment of immaterial rights.
 - When do the sales laws apply? What does one do when they do not apply? Results and best efforts.
 9. The functions “delivery” and “passing of risk”.
 - The interaction between the definition of delivery and late performances and between the definition of passing of risk and non-conformity. What is meant by “strict liability”?
 10. Delivery and passing of risk. Incoterms 2010
 - When does delivery take place? When does the risk pass to the buyer? Can the risk “pass back” to the seller? Incoterms 2010 as an alternative to statutory rules. Who bears the risk during loading and unloading? When does the risk pass for services? When is a service delivered? How does that affect the construction of a contract?
 11. The seller’s performance and non-performance under the contract
 - Has the seller delivered on time? Has it delivered conforming objects? Has it in other respects delivered in accordance with the contract? Evidence, guarantees and notices on non-performance.
 12. The buyer’s performance and non-performance

- The obligation to provide the seller with documents and other information. The obligation to take over the goods. The obligation to pay on time.

13. The parties' performance and non-performance of other obligations

- Non-disclosure, non-competition, CSR related obligations.

14. Unnecessary contract clauses

- Non-assignment of contracts, right to cancellation when the other party is bankrupt, re-negotiation, formal requirements for modifications, duty of insurance, right for the buyer to examine the goods prior to delivery, duty to act loyally and in good faith, duty to try to resolve disputes by friendly negotiations prior to litigation.

15. Remedies for breaches of contract (non-performance)

- a. Breaches of contract without remedies
- b. Available remedies, the purpose and function of remedies
- c. Damages
 - The reliance interest and the expectation interest.
 - Limitations of liability, force majeure etc.
 - Foreseeability of loss according to CISG and the Unidroit Principles.
 - Direct and indirect loss according to the Swedish sales law, other limitations of remuneration.
 - Grounds for liability: Strict liability, negligence and gross negligence.
 - The duty to mitigate loss.
 - Damages and liquidated damages.
 - Liquidated damages as remedy for other breaches of contract than late deliveries.
 - d. Repair and delivery of substitute goods
 - e. Price reduction
 - Calculation of a price reduction. The relationship between damages and price reduction. Price reduction as a remedy for the breach of an obligation of best efforts.
 - f. Avoidance (termination)
 - Fundamental breaches of contract as a requirement for avoidance. Avoidance for the future or also for the past? Other limitations of the right to avoid the contract.